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**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.**

STB EX PARTE NO. 658

**THE 25TH ANNIVERSARY OF THE STAGGERS RAIL ACT OF 1980:
A REVIEW AND LOOK AHEAD**

**STATEMENT OF THE AMERICAN SHORT LINE AND REGIONAL
RAILROAD ASSOCIATION**

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The American Short Line and Regional Railroad Association (ASLRRA) submits this Statement in response to the Notice of Public Hearing published by the Surface Transportation Board on September 14, 2005. ASLRRA represents approximately 425 class II and class III railroads in the United States, Canada and Mexico as well as numerous suppliers and contractors to the short line and regional railroad industry. ASLRRA thanks the Surface Transportation Board for inviting the comments of interested parties on the occasion of the Hearing to mark the 25th anniversary of the Staggers Act. There is no more dramatic testament to the power and vision of that legislation than the dramatic growth of the class II and class III railroads during the two and one-half decades since the Act became law.

Prior to 1980 there were fewer than 250 railroads in the short line and regional railroad industry. Most of them were subsidiaries of large industrial corporations like

steel mills and lumber and paper companies. They operated primarily for the convenience of their owners and participated only marginally as transporters of unrelated goods and materials.

Since 1980, the number of Class II and Class III has more than doubled to 545 as of 2004. To illustrate the tectonic shift that this growth represents, in the two decades prior to 1980, 36 short line railroads began operation. In the two decades following 1980, 332 new short lines began operation, almost a ten-fold increase. During the same period, short line track miles have grown from about 8,800 to over 50,000 miles, making the short line industry collectively as large as the biggest class I carriers.

Today, one out of every four carloads moved in the United States originates and/or terminates on a short line or regional railroad. Short line shipments account for between 15-25% of Class I railroad revenues. Short lines serve nearly 12,000 facilities across the nation and provide their customers with rates that are 20-50% less than comparable truck transportation. Perhaps even more significant to national transportation policy, the shippers served are disproportionately located in rural and underserved regions of the country. The short lines in these areas have become economic lifelines, linking small communities and shippers to the national and international transportation infrastructure in an era when light freight densities would likely preclude the only transportation alternative - public investment in highway maintenance and improvement - dooming these stakeholders to further decline and marginalization.

That the remarkable growth of the short line and regional railroad industry in bypassed areas of the American economy has occurred since the passage of the Staggers Act is no coincidence. "Underperforming" lines which formerly were uniformly

abandoned by class I carriers were given a new chance to participate in the nation's transportation network by the passage of the Staggers Act. Not only did it make the transfer of light density lines a simpler and more expeditious solution for the class I's, but it also provided the freedom from strangling regulation that allowed short line operators to provide rail access at significantly lower cost and with innovative service over rejuvenated lines that would have otherwise been left for dead. At the same time, freeing the larger class I railroads from the burden of supporting light density lines has ensured that America's entire railroad network is healthy and positioned to participate fully in today's robust and globally deregulated economy.

The explosive growth of the short line and regional rail brought about by the Staggers Act has also preserved thousands of railroad jobs. Today, approximately 25,000 people work at class II and class III railroads. In rescuing thousands of miles of rail line from abandonment, these short line and regional railroads have preserved the jobs of many of those employees who would otherwise have faced certain termination had the lines been abandoned by class I carriers instead of transforming them into short line and regional railroads.

Ironically, the short line and regional railroads that were conceived and grew in the post-Staggers deregulated environment are now the primary guardians of the common carrier obligation on which much of the remaining regulatory scheme is based. The privileges accorded to those granted common carrier status carry with them the obligation to serve all shippers. As the large railroads for the first time in memory struggle with capacity constraints and begin to ration service and create pricing strategies that adversely affect smaller customers and less profitable commodities, the class II and class

III railroads do not face capacity constraint, and still eagerly seek to serve all shippers, large and small alike, and virtually all commodity mixes. This difference is reflected in the fate of the boxcar. Class I railroads continue to reduce the size of their boxcar fleets, which are not used in the large intermodal and unit trains they now favor, but boxcars are a staple of the class II and class III industry. The continued decline in their numbers is a source of great concern to the smaller railroads because they still welcome the shipper who has a single boxcar load to move. The common carrier obligation is threatened when small single car shipments no longer find fluid access to the national interstate rail system in a capacity constrained network. Short line and regional railroads eagerly seek those movements, and in doing so do their part in fulfilling the promise of the common carrier obligation.

The evolution of the rail industry from the relative stasis of heavy regulation into the highly kinetic world of commercial competition and the concurrent birth of the short line and regional railroad industry as a viable and independent component of the national rail system has not been without pain. Like natural evolution itself, it has sometimes been a harsh and unpredictable process which continues to this day. Fierce competition has driven rates freight rates down over 20 percent since 1980. Revenues per ton mile have been reduced by 60% in the same period. As the Class I railroads move to a standard 286,000 pound car, the Class II and III railroads face increasing capital needs to upgrade their systems to accommodate the heavier cars. Relationships with the Class I railroads who in many cases gave them birth can sometimes be vexing and occasionally even life threatening for class II and class III offspring. In that context challenges

continue to arise which, without the watchful supervision of the Surface Transportation Board, many short lines would be ill equipped to negotiate on their own.

The issue of paper barriers, the restrictions on interchange which most class I railroads imposed upon short lines as a condition of transferring existing rail lines and customers to them, is illustrative. As the ASLRRA has noted in prior submissions to this Board, many short line railroads would probably never have been formed if their class I creators had no assurance that their existing customers would not be lost to competitors as a result of spinning off lines to independent short line operators. Yet for some short lines, the contractual limitations they accepted in exchange for receiving the lines when combined with the enormous power their class I connections wield over every aspect of their operations from interchange to revenue accounting and collection, make it impossible for those short lines to bargain meaningfully with their class I counterparts over waivers or amendments to their paper barrier restrictions.

Fortunately, the Surface Transportation Board strongly encouraged a dialogue between the short lines and their class I carriers on the paper barrier issue, and the Railroad Industry Agreement resulted. This agreement identifies and defines situations in which waivers to paper barriers shall be granted and creates a method by which disagreements between the Class I carriers and the short lines over the application of paper barriers can be adjudicated if not openly, at least with some review by participants of both parts of the industry. It is hard to imagine that the Railroad Industry Agreement would have come into existence without the presence of the Surface Transportation Board. In the unvarnished playing field of pure commercial competition, the Class I

railroads would have had too much practical power and too little incentive to create such an agreement.

In sum, the short line and regional railroad industry was born to operate in a post-Staggers world of commercial competition. Not surprisingly it has grown and thrived, but the necessity of interchange in a seamless interstate rail network still keeps its participants uniquely dependent upon the wishes and the fortunes of their class I connections. Rational decisions by class I carriers to emphasize certain connections or change pricing strategies for certain commodities can have devastating if unintended consequences to the viability of class-I connection dependent short lines, who sometimes face take-it-or-leave-it propositions that can put them out of business. Yet they have neither audible voice nor leverage when they are wholly dependent on class I largesse. Anemic short line and regional railroads threaten the strength of the national rail network which has come to flourish as a result of Staggers Act. This tension between the marketplace and the desirable public policy of a uniformly strong national rail network cannot be resolved in the absence of a strong, visionary Surface Transportation Board which will aggressively protect and promote the goals of the Staggers Act. The short line and regional railroad industry looks to the Surface Transportation Board to assure a level playing field in which Class II and Class III railroads can fully, fairly and profitably serve the American shipping public for generations to come.

Respectfully Submitted,

AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

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